

ENTERED

June 05, 2017

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA

§

VS.

§

CRIMINAL ACTION NO. 2:08-CR-535-1

SABINO CASTORENA

§

ORDER

Sabino Castorena filed a second motion to reduce sentence pursuant to 18 U.S.C. § 3582(c) and Amendment 782 to the sentencing guidelines and requests appointment of counsel and an evidentiary hearing. D.E. 107. Although Castorena was eligible for a sentence reduction pursuant to Amendment 782, this Court denied the motion due to the need to protect the community by Order dated August 21, 2015. D.E. 96. Castorena appealed from that Order, but the Fifth Circuit dismissed his appeal for want of prosecution. D.E. 101.

Castorena requests appointment of counsel. Although the Court may appoint counsel “in the interest of justice,” there is no constitutional or statutory right to counsel in a § 3582 proceeding. *United States v. Robinson*, 542 F.3d 1045, 1052 (5th Cir. 2008); *see also United States v. Hereford*, 385 Fed. App’x. 366, 368 (5th Cir. July 12, 2010) (per curiam) (designated unpublished). In *United States v. Watkins*, 510 Fed. App’x. 325 (5th Cir. Jan. 31, 2013) (per curiam) (designated unpublished) and *United States v. Willard*, 481 Fed. App’x. 915 (5th Cir. June 26, 2012) (per curiam) (designated unpublished), the district court did not abuse its discretion by failing to appoint counsel in § 3582 proceedings where the defendant, was able to make an appropriate motion and the issues were not complex. The Court denies Castorena’s motion to appoint counsel.

Although Castorena argues that his case presents “very important factual matters,” he does not indicate the nature of the alleged facts. The Court considered Castorena’s programming while in prison, the potential sentence reduction available, and also considered Castorena’s criminal record. The Court found that the balance of the § 3553(a) factors weighed in favor of Castorena’s original sentence. Castorena has brought nothing new for the Court to consider.

The Court DENIES Castorena’s second motion (D.E. 107) for sentence reduction.

SIGNED and ORDERED this 2nd day of June, 2017.



Janis Graham Jack
Senior United States District Judge